

§ 260.10b-3

or irrevocable power to make the call will be given to some third person.

(c) All liens securing the securities will be released or all steps necessary to effect the release at the maturity or redemption date will be taken.

The application shall be deemed to have been granted unless, within 7 days after it is filed, the Commission orders a hearing thereon.

[6 FR 808, Feb. 7, 1941]

§ 260.10b-3 Applications relative to affiliations between trustees and underwriters.

(a) Any person proposing to act as trustee under indentures to be qualified under the act may make application for a finding by the Commission as to whether such person is or is not an affiliate of any specified person who may be named as an underwriter for an obligor in any registration statement or application for qualification subsequently filed with the Commission.

(b) Every application pursuant to this section shall be filed in triplicate and shall contain a statement of the material facts necessary to enable the Commission to make the finding request. The applicant may incorporate by reference in the application any information or documents contained in a statement of eligibility and qualification of the applicant filed with the Commission. The Commission may with the consent of the applicant or at the applicant's request, make a part of the record the record in any prior proceeding in which the same issues were involved.

(c) A hearing will be held, after confirmed telegraphic notice to the applicant, upon every application filed pursuant to this section.

(d) Every finding by the Commission pursuant to this section shall be limited to the facts disclosed in the application and in the hearing thereon, and shall be made solely for the purposes of sections 305(b) and 307(c) of the Act.

[6 FR 2376, May 13, 1941]

§ 260.10b-4 Application for stay of trustee's duty to resign pursuant to section 310(b) of the Act.

(a) Three copies of every application for a stay of a trustee's duty to resign

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under section 310(b) of the Act and of every amendment thereto shall be filed with the Commission at its principal office.

(b) One copy shall be manually signed by a duly authorized officer of the applicant (or individual customarily performing similar functions with respect to an organization, whether incorporated or unincorporated) or by a natural person seeking a stay under section 310(b) of the Act.

(c) Such applications shall be on paper no larger than $8\frac{1}{2} \times 11$ inches in size. If reduction of large documents would render them illegible, such documents may be filed on paper larger than $8\frac{1}{2} \times 11$ inches in size. The left margin shall be at least $1\frac{1}{2}$ inches wide and if the application is bound, it shall be bound on the left side.

(d) The application shall be typed, printed, copied, or prepared by a process which produces copies suitable for repeated photocopying and microfilming. All typewritten or printed matter shall be set forth in black ink to permit photocopying. If printed, the application shall be in type not smaller than 10-point, roman type, at least two points leaded.

(e) Rules 7a-28 through 7a-32 [§§ 260.7a-28 through 260.7a-32 of this chapter] relating to incorporation by reference shall be applicable to applications for stay pursuant to section 310(b) of the Act.

[56 FR 22320, May 15, 1991]

§ 260.10b-5 Content.

(a) Each application for a stay of a trustee's duty to resign under section 310(b) of the Act shall contain the name, address, and telephone number of each applicant and the name, address, and telephone number of any person to which such applicant wishes any questions regarding the application to be directed.

(b) Each application shall contain a statement of the reasons why the applicant is deemed to be entitled to a stay of resignation with reference to the provisions of section 310(b) of the Act. The statement shall address the nature of the default, the reasonableness of the period before the default will be cured or waived, the procedures to be used to cure or obtain a waiver of

the default, and the reasons why a stay will not be inconsistent with the interests of the holders of the indenture securities.

[56 FR 22321, May 15, 1991]

§ 260.10b-6 Notices—Exemptive Application Procedure.

(a) A proposed notice of the proceeding indicated by the filing of the application shall accompany each application for a stay of a trustee's duty to resign under section 310(b) as an exhibit thereto and if necessary shall be modified to reflect any amendments to such application.

(b) Notice of the initiation of the proceeding will be published in the FEDERAL REGISTER and will indicate the earliest date upon which an order disposing of the matter may be entered. The notice will also provide that any interested person may, within the period specified therein, submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter, and may request that a hearing be held stating the person's reasons therefore and the nature of his or her interest in the matter.

(c) An order disposing of the matter will be issued following the expiration of the period of time referred to in paragraph (b) of this section, unless the Commission thereafter orders a hearing on the matter.

(d) The Commission will order a hearing on the matter, if it appears that a hearing is necessary or appropriate in the public interest or for the protection of investors:

(1) Upon the request of any interested person, or

(2) Upon its own motion.

[56 FR 22321, May 15, 1991]

PART 261—INTERPRETATIVE RELEASES RELATING TO THE TRUST INDENTURE ACT OF 1939 AND GENERAL RULES AND REGULATIONS THEREUNDER

RULES UNDER SECTION 311

§ 260.11b-4 Definition of "cash transaction" in section 311(b)(4).

The term "cash transaction", as used in section 311(b)(4), means any transaction in which full payment for goods or securities sold is made within 7 days after delivery of the goods or securities in currency or in checks or other orders drawn upon banks or bankers and payable upon demand.

§ 260.11b-6 Definition of "self-liquidating paper" in section 311(b)(6).

The term *self-liquidating paper*, as used in section 311(b)(6) of the Act, means any draft, bill of exchange, acceptance or obligation which is made, drawn, negotiated or incurred by the obligor for the purpose of financing the purchase, processing, manufacture, shipment, storage or sale of goods, wares or merchandise and which is secured by documents evidencing title to, possession of or a lien upon the goods, wares or merchandise or the receivables or proceeds arising from the sale of the goods, wares or merchandise previously constituting the security: *Provided*, The security is received by the trustee simultaneously with the creation of the creditor relationship with the obligor arising from the making, drawing, negotiating or incurring of the draft, bill of exchange, acceptance or obligation.

RULES UNDER SECTION 314

PERIODIC REPORTS

§ 260.14a-1 Application of §§ 260.7a-15 to 260.7a-38.

Sections 260.7a-15 to 260.7a-38 shall be applicable to annual reports under section 314(a).

Subject	Release No.	Date	Fed. Reg. Vol. and Page
Opinion of the General Counsel relating to application of section 310(b) where trustee under one indenture is trustee under another indenture for securities of an affiliate of the obligor.	16	Nov. 14, 1941	11 FR 10989.
Opinion of the Chief Counsel to the Corporation Finance Division relating to when-issued trading of securities the issuance of which is subject to approval by a Federal district court under Chapter X of the Bankruptcy Act.	30	Aug. 28, 1944	Do.